

EXHIBIT 1

DC-16-06704 - DON DIXON, et al vs. OCWEN LOAN SERVICING LLC, et al

Case Number: DC-16-06704
 File Date: 06/06/2016
 Case Status: OPEN

Court: 192nd District Court
 Case Type: CNTR CNSMR COM DEBT

PLAINTIFF : DIXON, DON

Active Attorneys
 Lead Attorney:
WALLACE, D KIMBERLI
 Retained
 Work Phone: 817-745-4581
 Fax Phone: 817-953-7000

PLAINTIFF : DIXON, DANA

Active Attorneys
 Lead Attorney:
WALLACE, D KIMBERLI
 Retained
 Work Phone: 817-745-4581
 Fax Phone: 817-953-7000

DEFENDANT : OCWEN LOAN SERVICING LLC

Address:

BY SERVING REGISTERED AGENT CORPORATION SERVICE COMPANY
 D/B/A CSC-LAWYERS INCORPORATING SERVICE COMPANY
 211 E 7TH STREET SUITE 620
 AUSTIN TX 78701

DEFENDANT : THE BANK OF NEW YORK MELLON

Aliases:

FKA THE BANK OF NEW YORK

Address:

BY SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM
 1999 BRYAN STREET SUITE 900
 DALLAS TX 75201

06/06/2016 NEW CASE FILED (OCA) - CIVIL
 06/06/2016 ORIGINAL PETITION
 ORIGINAL PETITION

DIXON, DON

Total Financial Assessment
 Total Payments and Credits

\$287.00
 \$287.00

6/6/2016	Transaction Assessment			\$287.00
6/6/2016	CREDIT CARD - TEXFILE (DC)	Receipt # 35113-2016-DCLK	DIXON, DON	(\$287.00)

ORIGINAL PETITION

EXHIBIT 2

Tonya Pointer

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CASE SUBJECT TO TRANSFER

Per Dallas County Local Rule 1.08, the undersigned discloses that the present case is related to the closed case styled *In re: Order for Foreclosure Concerning 14924 Oaks North Drive, Dallas, TX 75250 Under Tex. R. Civ. Proc 736*, Cause No. DC-115-05121 in the 14th Judicial District Court of Dallas County, Texas.

DISCOVERY CONTROL PLAN LEVEL

1. Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, Plaintiffs intend to conduct discovery in this case under Level 3.

PARTIES AND SERVICE

2. Plaintiffs reside in Dallas, Dallas County, Texas.

3. Ocwen is a foreign entity, doing business under the laws of the State of Texas, and service of process on Ocwen may be effected pursuant to Sections 5.201 and 5.255 of the Texas Business Organizations Code, by serving its Registered Agent, Corporation Service Company dba CSC – Lawyers Incorporating Service Company at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

4. BONY is a foreign entity, doing business under the laws of the State of Texas, and service of process on BOA may be effected pursuant to Sections 5.201 and 5.255 of the Texas Business Organizations Code, by serving its Registered Agent, CT Corp System at 1999 Bryan Street, Suite 900, Dallas, TX 75201.

JURISDICTION AND VENUE

5. The subject matter in controversy is within the jurisdictional limits of this Court. Plaintiffs seek monetary relief of \$100,000 or less and non-monetary relief.

6. This Court has jurisdiction because the property, which is the subject of this litigation, is located in Texas and Defendants are doing business within this state.

7. Venue in this cause is proper in Dallas County, Texas pursuant to Section 17.56 of the Texas Business and Commerce Code and under Section 15.001 of the Texas Civil Practice and Remedies Code because this action involves real property, and the property is located in Dallas County, Texas.

FACTS

8. Plaintiffs are the current record owner of (and reside at) the property located at 14924 Oaks North Drive, Dallas, TX 75250 (the "Property").

9. On or about November 22, 2004, Plaintiffs allegedly signed a Promissory Note ("Note") with Option One Mortgage Corporation ("Original Mortgagee") to refinance an existing lien filed against the Property.

10. The Note is secured by that certain Homestead Lien Contract and Deed of Trust dated of same date for the benefit of Original Mortgagee ("Home Equity Loan"). The Home Equity Loan is to abide by the rules and regulations of Section (50) (a) (6) of Article XVI Texas Constitution.

11. The Home Equity Loan has been transferred to BONY and Ocwen is the servicer of the loan.

12. The Home Equity Loan has been transferred many times and in such transfers Plaintiffs became aware of inaccuracies of the accounting of the Home Equity Loan.

13. Plaintiff brought this to Ocwen's attention many times and requested a full accounting of their loan to show how each payment has been applied, if at all. Ocwen has not provided any such information to Plaintiff.

14. Defendants have charged duplicative title report fees, property valuation expenses yet has not provided any documentation to Plaintiffs to support such charges or any validation that any third parties have incurred such fees.

15. Plaintiffs mortgage statements received in 2013 and 2014 reflect an incorrect beginning principal balance, incorrect interest amount and incorrect total amount due.

16. Plaintiffs are entitled to a mortgage statement every month yet Plaintiffs have not received any mortgage statements for the years 2015 and 2016.

17. Plaintiffs attempted to make payments in the correct amount and Defendants refused such payments as they alleged it was not the amount due.

18. Based on the arguments stated herein, Plaintiffs now file this suit pursuant to Section 736.11 (a) of the Texas Rules of Civil Procedure. Section 736 of the Texas Civil Procedure states "***that any proceeding that is brought under Rule 736 will be automatically stayed if a respondent files a separate, original proceeding in a court of competent jurisdiction that puts in issue any matter related to the origination, servicing, or enforcement of the loan agreement, contract, or lien sought to be foreclosed prior to the foreclosure sale***". It further states that the foreclosure trustee or substitute trustee, once notified, must make all reasonable means necessary to stop the scheduled foreclosure sale.

VIOLATION OF 12 CFR SECTION 1024.41

19. Plaintiffs incorporate by reference the allegations set forth above, as if the same were fully set forth herein.

20. Defendants are required to provide accurate and timely disclosures to Plaintiffs.

21. Defendants are required to investigate and respond to and make corrections in response to borrower's complaints.

22. Defendant must provide Plaintiffs with accurate and timely information and documents in response to the Plaintiffs' request for information with respect to their loan.

VIOLATION OF 15. U.S.C. § 1638(f) (TILA)

23. 15. U.S.C. § 1638 (f) require mortgage servicers to send to borrowers periodic statements for residential mortgage loans. Further the Consumer Financial Protection Bureau ("CFPB" has issued regulations, which further clarify the type and kind of information to be contained in each statement. 12 C.F.R. § 1026.41,

24. Pursuant to 15 U.S.C. § 1640(a)(2)(A)(iv) Plaintiff is entitled to minimum statutory damages of \$400.00 and Pursuant to 15 U.S.C. § 1640(a)(3), Plaintiff is entitled to recover costs of court including attorney's fees.

AGENCY AND RESPONDEAT SUPERIOR

25. Whenever in this petition it is alleged that Defendants, did, or failed to do, any act, thing and/or omission, it is meant that Defendants itself or their agents, officers, servants, employees, vice principals, or representatives either did or failed to do such act,

thing and/or omission, and it was done with the full authorization or ratification of Defendants, and/or done in the normal routine, course and scope of the agency or employment of Defendants or its agents, officers, servants, employees, vice principals, or representatives and/or with actual and/or apparent authority of Defendants.

REQUEST FOR DISCLOSURE

26. This Petition includes Plaintiffs' Request for Disclosure to the named Defendants. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, you are requested to disclose, within 50 days of service of this request, the information or material described in rules 194.2(a)-(l).

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that the Defendants be cited to appear and answer herein and Plaintiffs respectfully pray that upon a final trial, the Court:

- a. Enter judgment in favor of Plaintiffs for actual damages, statutory damages and costs;
 - b. Award Plaintiffs their reasonable and necessary attorney fees and costs;
- and
- c. Such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,
D. KIMBERLI WALLACE, PLLC

/s/ D. Kimberli Wallace

D. Kimberli Wallace
Texas Bar No. 00792901
9500 Ray White Rd., Suite 200
Fort Worth, Texas 76244
Tel. (817) 745-4581
Fax (817) 953-7000
Email: kwallace@kwlawfirm.net
Attorney for Plaintiffs

EXHIBIT 3

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Don Dixon and Dana Dixon

(b) County of Residence of First Listed Plaintiff Dallas

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

D. Kimberli Wallace, 9500 Ray White Road, Suite 200, 817-745-4581

DEFENDANTS

Ocwen Loan Servicing, LLC and The Bank of New York

County of Residence of First Listed Defendant U.S. Virgin Islands

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Brett W. Schouest & Adam Nunnallee, 1717 Main Street, Suite 4200, Dallas, Texas 75201, 214-462-6453

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
12 C.F.R. § 1024.41 and 15 U.S.C. § 1638

Brief description of cause:
Statutory action related to servicing of mortgage loan.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
 07/19/2016

SIGNATURE OF ATTORNEY OF RECORD
/s/ Adam Nunnallee

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority for Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below. United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (7) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or a similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT 4

Supplemental Civil Cover Sheet for Cases Removed From State Court

This form must be attached to the Civil Cover Sheet at the time the case is filed in the U.S. District Clerk's Office. Additional sheets may be used as necessary.

1. State Court Information:

Please identify the court from which the case is being removed and specify the number assigned to the case in that court.

<u>Court</u>	<u>Case Number</u>
192nd Judicial District, Dallas County, Texas	DC-16-06704

2. Style of the Case:

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

<u>Party and Party Type</u>	<u>Attorney(s)</u>
Dana Dixon and Dona Dixon,	D. Kimberli Wallace, Texas Bar No. 00792901
Plaintiffs	9500 Ray White Road, Suite 200, 817-745-4581
Ocwen Loan Servicing, LLC and The Bank of New York	Adam Nunnallee, Texas Bar No. 24057453
Defendants	1717 Main Street, Suite 4200, 214-462-6453

3. Jury Demand:

Was a Jury Demand made in State Court? ☐ Yes ☒ No

If "Yes," by which party and on what date?

Party

Date

4. Answer:Was an Answer made in State Court? ☐ Yes☒ No

If "Yes," by which party and on what date?

Party_____
Date**5. Unserved Parties:**

The following parties have not been served at the time this case was removed:

<u>Party</u>	<u>Reason(s) for No Service</u>
Ocwen Loan Servicing, LLC	Plaintiffs did not request citations.
The Bank of New York	Plaintiffs did not request citations.

6. Nonsuited, Dismissed or Terminated Parties:

Please indicate any changes from the style on the State Court papers and the reason for that change:

<u>Party</u>	<u>Reason</u>
N/A	

7. Claims of the Parties:

The filing party submits the following summary of the remaining claims of each party in this litigation:

<u>Party</u>	<u>Claim(s)</u>
Plaintiffs	Plaintiffs assert claims related to the servicing of a mortgage loan under 12 CFR 1024.41 and 15 USC 1638.